O Karnatak Univers
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Subject:

O pinions under the

Karnatak University Act,

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File No. O Karnatak University/49

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557-A

CONTENTS.

Legal Department File No. 0. Karnatak University 49

Sr. No.	R.I. / O. No.	Subject.	Pages.
		Opinions under the Karnatak University Act, 1949.	
1.	~~Spl Confl. 25/8/1949~~	Section 65(2) Whether Government can substitute some other person as member of the Advisory Committee apointed under Section 65(2) for Mr. Mahajan, Principal J.G. College of Commerce, Hubli who has since left the college and has joined some institution in Khandesh even if he does not resign.	1-2.
2.	~~13180 18/11/1949~~	Sections 65&2 68. Constitution of the Academic Council	3-4.
3.	~~13792 30/11/1949~~	- do - do -	5-6.
4.	~~14687 17/12/1949~~	Chapter XII Whether elections can be held for the senate unless sections 14 and 15 are brought into force and is it not necessary to bring Sections 16, 18 and 17(XII) into force before the Syndicate can be constituted and whether the relevant provisions of sections 14 to 26 should be brought into force forthwith.	7-8.

Office of the H.L.A.

It appears that Mr. Mahajan, Principal, J.G. College of Commerce, Hubli, is one of the 15 members of the Advisory Committee appointed by Government under section 65(2) of the Karnatak University Act, 1949. But he has since left that college and has jointed some institution in Khandesh. It appears that Mr. Mahajan may not choose to resign even after leaving the Commerce College, Hubli. The question raised for H.L.A's consideration is whether Government can substitute some other person for Mr. Mahajan even if he does not resign as a member of the Karnatak University Advisory Committee.

2. The members of the Advisory Committee are nominated by Government under section 65(2) of the Karnatak University Act, 1949. This provision does not prescribe that the members to be nominated by Government must be connected with any educational institution. In fact some persons who are in no way connected with any institution have been appointed on the Advisory Committee. Consequently Mr. Mahajan cannot be considered as being appointed on the Advisory Committee qua principal of the Commerce College, Hubli. There is no express provision in the Act empowering Government to substitute some other persons in place of those nominated on the Advisory Committee. Section 68 inter alia provides that in first giving effect to the provisions of the Act the Provincial Government as occasion may require may by order to anything which appears to it necessary form the

purpose of removing the difficulty. The Advisory Committee being already appointed under section 65(2), that provision is deemed to be given effect to already. Consequently, section 68 would not be available for passing any order substituting some other member for Mr. Mahajan. There is no provision in the Act for filling a vacancy on the Advisory Committee caused either by death or resignation of any member; however, under the general power vesting in Government and in this case by recourse to section 68 there will be no objection to filling suh vacancy by Government. But in the present case no vacancy has so far occurred, and the fact that Mr. Mahajan has left the Commerce College, Hubli, would not give rise to any vacancy. For, it would still be open to him to serve on the Advisory Committee even after he has ceased to be the Principal of the Commerce College, Hubli, as he was not appointed qua Principal of that College. In the circumstance it would not be competent for Government to substitute some other person in place of Mr. Mahajan on the Advisory Committee unless the vacancy occurs by resignation. Mr. Mahajan may, therefore, be persuaded to resign his seat on the Advisory Committee.

Sd/- P.M. LAD,

Remembrancer of Legal Affairs.

U. R. to E. & I.D. No. 540-Confl, dated the 25th August 1949.

Submitted for signature,

B.V. - 24/8.

A.L.R. R.L.A. - 24/8.
R.L.A.

Submitted after issue

2-File in O. Karnatak University/49.

EVY. 6/6.

Office of the R.J.A.

The Karnatak University Act, 1949, section 68 constitution of the Academic Council.

Under section 68 of the Karnatak University Act, 1949, if any difficulty arises as to the first constitution of any authority of the University after the coming into force of the Act or otherwise in first giving effect to the provisions of the Act, the Provincial Government can, as occasion may require, by order do anything which appears to it necessary for the purpose of removing the difficulty. Under section 65(1)(b) it is the duty of the first Vice-Chancellor to make arrangements for constituting the Senate, the Syndicate, the Academic Council and other authorities of the University within six months after the date of his appointment; and as the reference has been made by the Registrar by the direction of the Vice-Chancellor pointing out the difficulty as regards the first constitution of the Academic council, the best course would appear to be for the Provincial Government to issue a direction under section 68 that for the purpose of electing four persons to the Academic Council the Senate shall not include the Deans of Faculties.

2. The Education Department has suggested that to solve the difficulty the first Vice-Chancellor should frame a statute under section 65(2) that for the purpose of election of four members on the Academic Council the Senate shall not include the Deans of Faculties. However under that section the Vice-Chancellor can frame statutes only with the assistance of the Advisory Committee

P.T.O.

nominated by the Provincial Government and subject to the provisions of the Act and the approval of the Chancellor. The procedure is lengthy and it does not appear necessary to resort to that section when section 68 is specially designed to meet such difficulties.

Sd/- D.M. LAD,

Remembrancer of Legal Affairs.

U. R. to R E.D., No. 13120, dated the 18th November 1949

Submitted for signature.

D. - 17/11

A.D.R. R.K.
17/11.

R.L.A.

Issu--

18/11.

EVY. 6/6.

19464 dated 26-11-1949.

In his opinion No. 13120, dated 18-11-1949 (p. 5 ante) the R.L.A. had suggested that a direction may be issued by the Provl. Government under sec tion 68 of the Karnatak University Act, 1949, to the effect that for the purpose of electing four persons to the Academic Council the Senate shall not include the Deans of Faculties. The course suggested by the E.D. viz. that the first Vice Chancellor should frame a statute under section 65(2) was not recommended as the procedure for framing such statutes was lengthy. The E.D. now states that H.E. the Chancellor has since approved of a rule (rule 28A) which provides for the election by the Senate (without the Deans of Faculties) of the four members of the Academic Council. In these circumstances the E.D. thinks that no direction need be issued as advised by the R.L.A.

p. 173 of the file slip E (also p. 113 slip A).

Id/-
28/11/1949

A.L.R. R.E.
28/11

R.L.A. P.M. LAD,
28/11.

U.R. to E.D., No. 13797 dated 30-11-1949.

EVT. 6/M.

Office of the R.J.A.

The Karnatak University Act, 1949.

Chapter XII of the Karnatak University Act containing "transitory provisions" is practically a self-contained part of the enactment making provision for the constitution of the first authorities, and it is governed by the rest of the Act only in so far as the first consitution is to be on the lines provided therein. These transitory provisions were inserted in the Act for the purpose of taking all steps necessary for constituting the first authorities without bringing into force sections 14 to 26. R.L.A's opinion No. 7348, dated 5-6-1948 where a similar question under the Poona University Act was considered would also apply to the pre sent case and it does not appear necessary to bring into force the provisions of sections 14 to 26 at present. Please see in this connection provisional Statute 73 made by the Vice-Chancellor of the Poona University.

U. R. to

Su

EVT. 6/